

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 24-2160

Guzman Loera v. USA
Caption [use short title]

Motion for: Successive Application for 28 USC 2255.
Request permission to file a successive application
with the district court (EDNY)

Set forth below precise, complete statement of relief sought:

To order a new trial because of ineffective
assistance of counsel (both trial counsel
and appellate counsel).



MOVING PARTY: Joaquín Guzmán Loera

OPPOSING PARTY: USA

☒ Plaintiff

☐ Defendant

☐ Appellant/Petitioner

☐ Appellee/Respondent

MOVING ATTORNEY: Pro Se

OPPOSING ATTORNEY: USA

[name of attorney, with firm, address, phone number and e-mail]

Court- Judge/ Agency appealed from: Eastern District of NY- trial judge Brian Logan

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☐ Yes

☒ No (explain): I do not have access
to ELF or their address

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below?

☐ Yes

☒ No

Has this relief been previously sought in this court?

☐ Yes

☒ No

Requested return date and explanation of emergency:

Opposing counsel's position on motion:

☐ Unopposed

☐ Opposed

☒ Don't Know

Does opposing counsel intend to file a response:

☐ Yes

☐ No

☒ Don't Know

Is oral argument on motion requested?

☐ Yes

☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes

☒ No If yes, enter date:

Signature of Moving Attorney:

Joaquín Guzmán Loera

Date: 9/9/24

Served by:

☐ CM/ECF

☒ Other [Attach proof of service]

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

**MOTION FOR AN ORDER AUTHORIZING THE DISTRICT COURT
TO CONSIDER A SUCCESSIVE OR SECOND MOTION TO
VACATE, SET ASIDE OR CORRECT SENTENCE
PURSUANT to 28 U.S.C. §§ 2244 (b), 2255(h)
BY A PRISONER IN FEDERAL CUSTODY**

NAME: Joaquin Guzman Loera

PLACE OF CONFINEMENT:

USP Florence ADMAX

PRISONER NUMBER:

~~79604~~ 79614-053

Instructions—Read Carefully

- (1) This motion must be legibly handwritten or typewritten and signed by the movant under penalty of perjury. All documents must be on 8½ x 11 inch paper; the Court will not accept other paper sizes. Any false statements of a material fact may serve as the basis for prosecution and conviction for perjury.
- (2) All questions must be answered concisely in the proper space on the form.
- (3) Movant seeking leave to file a second or successive petition is required to use this form.
- (4) Movant may use additional pages only to explain additional grounds for relief and set forth additional facts and documents that support any alleged grounds. Separate petitions, motions, briefs, arguments, etc. should not be submitted.
- (5) In capital cases only, the use of this form is optional, and separate petitions, motions, briefs, arguments may be submitted.

- (6) Movant must show in the motion to the Court of Appeals that the claim to be presented in a second or successive habeas corpus application is based upon either
 - (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable fact finder would have found the movant guilty of the offense; or
 - (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.
- (7) Send the completed motion, the original and two copies, to:

**Clerk of Court
United States Court of Appeals for the Second Circuit
Thurgood Marshall United States Court House
40 Foley Square
New York, New York 10007**

MOTION

1. (a) State and division of the United States District Court which entered the judgment of conviction under attack
New York Eastern District of NY

(b) Case number 1:2009cr00466

2. Date of judgment of conviction July 18, 2019

3. Length of sentence life in prison Sentencing Judge Hon. Brian Logan

4. Nature of offense or offenses for which you were convicted: Continuing criminal enterprise, narcotics trafficking, and money laundering conspiracy.

5. Have you taken a direct appeal relating to this conviction and sentence in the federal court?

Yes ☒ No ☐ If "yes", please note below:

(a) Name of court U.S. Court of Appeals, Second Circuit

(b) Case number 0:2019cr02239

(c) Grounds raised (list all grounds; use extra pages if necessary) 1) The District Court denied motion to dismiss alleging specialty violations in my extradition for lack of standing; 2) Excessive and punitive pretrial restrictions gelded my rights to counsel, a defense and due, compulsory process, foreclosing a fair trial; 3) District Court abused its discretion by a combination of erroneous evidentiary rules that stymied my ability to cross examine; 4) Denial of evidence hearing.

(d) Result The Second Circuit affirmed the judgment of the District Court

(e) Date of result January 25, 2022

6. Related to this conviction and sentence, have you ever filed a motion to vacate in any federal court?

Yes ☐ No ☒

If "yes", how many times? _____ (if more than one, complete 7 and 8 below as necessary)

(a) Name of court _____

(b) Case number _____

(c) Nature of proceeding _____

(d) Grounds raised (list all grounds; use extra pages if necessary) _____

(e) Did you receive an evidentiary hearing on your motion? Yes ☐ No ☐

(f) Result _____

(g) Date of result _____

7. As to any second federal motion, give the same information:

(a) Name of court _____

(b) Case number _____

(c) Nature of proceeding _____

(d) Grounds raised (list all grounds; use extra pages if necessary) _____

(e) Did you receive an evidentiary hearing on your motion? Yes ☐ No ☐

(f) Result _____

(g) Date of result _____

8. As to any third federal motion, give the same information:

(a) Name of court _____

(b) Case number _____

(c) Nature of proceeding _____

(d) Grounds raised (list all grounds; use extra pages if necessary) _____

(e) Did you receive an evidentiary hearing on your motion? Yes ☐ No ☐

(f) Result _____

(g) Date of result _____

9. Did you appeal the result of any action taken on your federal motions? (Use extra pages to reflect additional federal motions if necessary)

(1) First motion No ☒ Yes ☒ Appeal No. _____

(2) Second motion No ☐ Yes ☐ Appeal No. _____

(3) Third motion No ☐ Yes ☐ Appeal No. _____

10. If you did not appeal from the adverse action on any motion, explain briefly why you did not: I went straight to the US Supreme Court with a writ of Certiorari, but they did not hear me.

11. State concisely every ground on which you now claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

A. Ground one: I was illegally extradited to the U.S.

Supporting FACTS (tell your story briefly without citing cases or law):

The extradition to the EDNY was illegal. I should have been extradited to the Western District of TX and Southern District of California. There was never a waiver of the rule of specialty, signed by a magistrate judge.

Was this claim raised in a prior motion? Yes ☒ No ☐

Does this claim rely on a "new rule of constitutional law?" Yes ☐ No ☒

If "yes," state the new rule of constitutional law (give case name and citation):

Does this claim rely on "newly discovered evidence?" Yes ☐ No ☒

If "yes," briefly describe the newly discovered evidence, attach a copy (if available), state when you obtained it, and why it was not previously available to you.

B. Ground two: Ineffective assistance of counsel

Supporting FACTS (tell your story briefly without citing cases or law):

My trial attorneys were ineffective. They did not cross examine witnesses properly and as a result, I was convicted. They also did not fight to have certain evidence excluded from trial. Same with my appellate attorney. The evidence is clear.

Was this claim raised in a prior motion? Yes ☒ No ☐

Does this claim rely on a "new rule of constitutional law?" Yes ☐ No ☒
If "yes," state the new rule of constitutional law (give case name and citation):

Does this claim rely on "newly discovered evidence?" Yes ☐ No ☒
If "yes," briefly describe the newly discovered evidence, attach a copy (if available), state when you obtained it, and why it was not previously available to you.

[Additional grounds and facts and documents supporting any alleged grounds may be set forth on extra pages if necessary]

12. Do you have any motion or appeal now pending in any court as to the judgment now under attack? Yes ☒ No ☐

If "yes," Name of court This one. This process only. Case number 24-2160

Wherefore, movant prays that the United States Court of Appeals for the Second Circuit grant an Order Authorizing the District Court to Consider Movant's Second or Successive Motion to Vacate under 28 U.S.C. § 2255.

Joaquin Guzman Jr.
Movant's Signature

I declare under Penalty of Perjury that my answers to all the questions in this motion are true and correct.

Executed on 9/25/24
[date]

Joaquin Guzman Jr.
Movant's Signature

PROOF OF SERVICE

Movant must send a copy of this motion and all attachments to the United States Attorney's office in the district in which you were convicted.

I certify that on 9/25/24, I mailed a copy of this motion*
[date]

and all attachments to Brian Logan at EDNY at the following address:

271 Cadman Plaza East Brooklyn, NY 11201

Joaquin Guzman Jr.
Movant's Signature

* Pursuant to FRAP 25(a), "Papers filed by an inmate confined in an institution are timely filed if deposited in the institution's internal mail system on or before the last day of filing. Timely filing of papers by an inmate confined in an institution may be shown by a notarized statement or declaration (in compliance with 28 U.S.C. § 1746) setting forth the date of deposit and stating that first-class postage has been prepaid."

Name: Joaquin Hernandez
Reg No: 89914053
U.S. Penitentiary MAX
P.O. Box 8500
Florence, CO. 81226-8500

cm 24-89914053-0926-mv-044

special mail

Hon. Brian Cogan

Eastern district court of NY

271 Cadman Plaza East

Brooklyn NY 11201

